

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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:
UNITED STATES OF AMERICA, : Criminal Action No.
:
versus : 1:16-CR-300
:
DAMASO LOPEZ NUNEZ, :
:
Defendant. : September 28, 2018
-----x

The above-entitled Plea hearing was continued
before the Honorable T.S. Ellis, III, United States District
Judge.

A P P E A R A N C E S

FOR THE GOVERNMENT:

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OFFICIAL UNITED STATES COURT REPORTER:

MS. TONIA M. HARRIS, RPR
United States District Court
Eastern District of Virginia
401 Courthouse Square
Ninth Floor
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P R O C E E D I N G S

(Court proceedings commenced at 12:32 p.m.)

THE COURT: All right. Good afternoon.

MR. RETURETA: Good afternoon, Your Honor.

THE COURT: All right. You may call the next matter.

THE DEPUTY CLERK: United States versus Damaso Lopez Nunez. Criminal Case No. 1:16-CR-300.

Counsel, please not your appearance for the record.

THE COURT: Who's here for the government?

MR. TRUMP: Jim Trump, Your Honor. Good afternoon.

THE COURT: All right. Mr. Trump.

And for the defendant.

MR. RETURETA: Your Honor, good afternoon. Manuel Retureta on behalf of Mr. Lopez Nunez. With me also is my local counsel, Mr. Matthew Wartel.

THE COURT: Yes. Good afternoon, Mr. Wartel. I haven't seen you in a while.

MR. WARTEL: Good to see you.

THE COURT: And Mr. Lopez Nunez, good afternoon, sir.

What name do you wish to be addressed by, Lopez, or Lopez-Nunez, or Nunez?

THE DEFENDANT: Lopez, sir.

THE COURT: Lopez. All right, sir, good afternoon.

1 You may be seated.

2 THE DEFENDANT: Good afternoon. Thank you.

3 THE COURT: All right. Ms. Lefebvre, you're the
4 interpreter today?

5 THE INTERPRETER: Yes, Your Honor.

6 THE COURT: And I am thoroughly familiar with your
7 demonstrated proficiency as an interpreter in Spanish and
8 English. You do so simultaneously as it is spoken, and in my
9 unprofessional view, quite correctly. You may administer the
10 oath to her. You may give me your name and your
11 qualifications for the record and then have her sworn.

12 INTERPRETER: Anna Lefebvre, federally certified
13 Spanish certified court interpreter.

14 (Interpreter sworn.)

15 THE COURT: All right. Now, this was scheduled for
16 a status conference, but I am advised that the defendant now
17 wishes to plea to Count 1 of the indictment, charging him and
18 including engaging in a conspiracy to distribute five
19 kilograms or more of cocaine, intending or knowing that it
20 would be imported unlawfully into the United States.

21 MR. TRUMP: That's correct, Your Honor.

22 MR. RETURETA: That is correct, Your Honor.

23 THE COURT: Now, let me ask, have you had an
24 adequate opportunity to review these plea papers and to have
25 them orally translated into Spanish for your client?

1 MR. RETURETA: We have had enough time, Your Honor,
2 yes.

3 THE COURT: And I take it you have had it translated
4 for your client.

5 MR. RETURETA: I have translated it personally to my
6 client. I speak fluent Spanish and we have discussed it at
7 length.

8 THE COURT: All right. Good.

9 All right. Mr. Lopez, come to the podium, please,
10 sir. And the clerk may administer the oath to the defendant.

11 (Defendant sworn.)

12 THE COURT: All right. Mr. Lopez, do you
13 understand, sir, that you are now under oath and that if you
14 answer any of the Court's questions falsely, you may be
15 prosecuted for perjury or for making a false statement?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Lopez, there are two reasons why the
18 Court will ask you a series of questions, and it is important
19 that you understand what those two reasons are.

20 First, the Court will ask you a series of questions
21 to determine from your answers whether your plea of guilty to
22 this charge is a knowing and a voluntary plea. That is that
23 you understand the nature of the charge to which you intend to
24 plead guilty. That is engaging in a conspiracy to distribute
25 five kilograms or more of cocaine intending the cocaine would

1 be unlawfully imported into the United States. So that's the
2 first thing. I want to be sure that you understand the nature
3 of the charge.

4 Secondly, I want to be sure that you understand all
5 the rights you'll be giving up by pleading guilty.

6 And third, I want to be sure that you understand all
7 the consequences, punishments that may result from your
8 pleading guilty to this charge.

9 And then, understanding all of that, I want to be
10 sure that you're going ahead and pleading guilty freely and
11 willingly and voluntarily because you're in fact guilty.

12 Now, the second reason the Court will ask you a
13 series of questions is to determine from your answers whether
14 there is a factual basis for your plea of guilty. That is,
15 that you actually did what you're pleading guilty to, because
16 in this Court, Mr. Lopez, you may not plead guilty to
17 something you did not do.

18 Do you understand those is the two reasons the Court
19 will ask you a series of questions?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: State your full name.

22 THE DEFENDANT: Damaso Lopez Nunez.

23 THE COURT: What is your age?

24 THE DEFENDANT: Fifty-two years and seven months.

25 THE COURT: Where were you born?

1 THE DEFENDANT: Portaceli Eldorado, Culiacán,
2 Sinaloa, Mexico.

3 THE COURT: Did you attend school there?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: What is the highest grade in school that
6 you completed?

7 THE DEFENDANT: Third year college. Law school. A
8 bachelor in law.

9 THE COURT: Did you graduate then from grammar
10 school and high school?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you read and write Spanish?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you speak English?

15 THE DEFENDANT: Very little, just barely.

16 THE COURT: Do you read and write English?

17 THE DEFENDANT: No.

18 THE COURT: What jobs did you hold in Mexico, apart
19 from drug trafficking?

20 THE DEFENDANT: I worked at the attorney general's
21 office in Sinaloa.

22 THE COURT: All right. What were you doing?

23 (Spoken in Spanish.)

24 THE DEFENDANT: I was a prosecutor. Like a
25 prosecutor.

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1 THE COURT: And how long did you serve as a
2 prosecutor?

3 THE DEFENDANT: Three years.

4 THE COURT: Have you ever been treated for mental
5 illness or addiction to narcotic drugs of any kind?

6 THE DEFENDANT: No, sir.

7 THE COURT: Ever been treated for alcohol abuse?

8 THE DEFENDANT: No, sir.

9 THE COURT: Are you currently taking any drug or
10 medication, whether prescribed or otherwise?

11 THE DEFENDANT: One pill a week. It's because I had
12 a bacteria in my nail, because the showers were dirty.

13 THE COURT: Any other medicine other than what you
14 have described for your nail?

15 THE DEFENDANT: No, sir.

16 THE COURT: Does that medicine impair your abilities
17 to see, hear, or understand things?

18 THE DEFENDANT: In no way.

19 THE COURT: Is there any reason today why you would
20 be unable to understand what's happening in this proceeding
21 today?

22 THE DEFENDANT: No, sir. I understand everything
23 very well.

24 THE COURT: Have you been furnished with a copy of
25 the indictment, the grand jury's charges against you and had

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1 it orally translated for you into Spanish?

2 THE DEFENDANT: Yes, sir, my attorney did it.

3 THE COURT: And have you been able to discuss the
4 charges with your attorney in Spanish?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: So you give him a passing grade for his
7 Spanish?

8 Does he understand well? (Spoken in Spanish.)

9 THE DEFENDANT: Yes, sir.

10 (Interpreter's translation.)

11 THE COURT: I speak Spanish too. (Spoken in
12 Spanish.)

13 I was born in Colombia. (Spoken in Spanish.)

14 (Interpreter's translation.)

15 MR. RETURETA: If you allow me -- (Spoken in
16 Spanish.)

17 THE COURT: (Speaking in Spanish.)

18 (Interpreter's translation.)

19 MR. RETURETA: I say I speak Spanish, but in truth I
20 speak Cuban. (Spoken in Spanish.)

21 THE COURT: Mr. Trump, there's a long story that
22 goes with that.

23 MR. TRUMP: I understand English.

24 THE COURT: In some parts of --

25 (Discussion off the record.)

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1 THE COURT: All right. Now, enough, proceed.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, do you understand that Count 1, the
4 count to which I'm advised you intend to plead guilty,
5 provides as follows:

6 That from in or around 2003 and continuing
7 thereafter up to and including the date of the indictment,
8 which is December of 2016, within the jurisdiction of the
9 United States, and the offense begun and committed outside the
10 jurisdiction of a particular state or district, including
11 Mexico, Colombia, Costa Rica, El Salvador, Guatemala, Panama,
12 and elsewhere, you, also known as, El Licenciado, knowingly
13 and intentionally combined, conspired, confederated and agreed
14 with each other and with others, known and unknown,
15 intentionally, knowingly to distribute five kilograms or more
16 of the substance containing a detectable amount of cocaine, a
17 Schedule II controlled substance, intending and knowing that
18 such substance would be unlawfully imported in the United
19 States in violation of Title 21 U.S. Code Section 959(a) and
20 960 and 963.

21 So do you understand, Mr. Lopez --

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: -- the charge which you intend to plead
24 guilty in Count 1 of the indictment, is a charge of your
25 engaging in a conspiracy to distribute five kilograms or more

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1 of cocaine intending or knowing that the cocaine would be
2 unlawfully imported in the United States?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Lopez, it's a serious felony offense
5 and it's important that you understand all the punishments or
6 consequences that may result from your pleading guilty to that
7 charge. So I'm going to list those for you now.

8 First, you could be sentenced to a term of
9 imprisonment. There's a minimum term of ten years. Ten years
10 in prison without parole is the least that could happen to you
11 unless there is a motion for a downward departure in your
12 guidelines or reduction of your sentence based on any
13 cooperation that you may provide. Or based --

14 I take it the safety valve would have no
15 application?

16 MR. TRUMP: That's correct, Your Honor.

17 THE COURT: So the mandatory minimum term of
18 imprisonment is ten years without parole. The maximum term of
19 imprisonment is life in prison without parole. There's a
20 maximum fine of \$10 million. You'll be required to forfeit
21 any assets used to facilitate the drug trafficking activities
22 or any assets traceable to the profits or proceeds of the drug
23 trafficking activities. And then on release of confinement,
24 you'll be required to serve a minimum supervised release term
25 of five years and a maximum supervised release term of life.

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1 And if you were to violate any of the conditions of that
2 release, you could be returned to prison for the full
3 supervised release term.

4 Now, do you understand, Mr. Lopez, that all of those
5 that I've listed are consequences or possible consequences of
6 your plea of guilty to this count?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, Mr. Lopez, it appears you have a
9 plea agreement and a Statement of Facts that you have signed.
10 Were those documents orally translated for you into Spanish?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And did you have an adequate opportunity
13 to discuss the plea agreement and the Statement of Facts with
14 your attorney?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And are you fully satisfied with the
17 advice and counsel Mr. Retureta has provided you in this case?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I'm going to have the court security
20 officer now hand you what appear to be your plea agreement and
21 Statement of Facts. I want you to look at those documents and
22 tell me whether they are your plea agreement and Statement of
23 Facts and you may -- and you may have as much of that
24 translated into Spanish as you need in order to tell me
25 whether it's your plea agreement and Statement of Facts.

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: Is that your plea agreement, Mr. Lopez?

3 THE DEFENDANT: Yes.

4 THE COURT: And is that your signature that appears
5 at the end of that document?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And does your signature appearing at the
8 end of the plea agreement signify that you have had the plea
9 agreement orally translated for you into Spanish and that you
10 understand and agree to its terms?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Is that your Statement of Facts, Mr.
13 Lopez?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And is that your signature that appears
16 at the end of that document?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And does your signature appearing at the
19 end of the Statement of Facts signify that you have had the
20 Statement of Facts orally translated for you into Spanish and
21 that you agree that it is true and accurate in all respects?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Return those documents to the bench,
24 please.

25 Now, Mr. Lopez, I'm going to summarize the essential

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1 terms of your plea agreement. Pay careful attention to my
2 summary because at the conclusion, I will ask you whether
3 those are the terms of your plea agreement with the government
4 as you understand it.

5 Under the plea agreement, you agree to plead guilty
6 to Count 1 of the indictment charging you were conspiring to
7 distribute five kilograms or more of cocaine intending or
8 knowing -- and knowing that such substance would be unlawfully
9 -- will be unlawfully imported into the United States.

10 And then the plea agreement recites, as I did a few
11 moments ago, what the maximum penalties are for that offense.
12 There's a mandatory minimum term of imprisonment of ten years.
13 There's a maximum term of imprisonment of life in prison.
14 There's a maximum fine of up to \$10 million. Forfeiture of
15 assets is required, that is, any drug-related assets. That
16 means any assets used to facilitate the drug trafficking
17 activities or any assets traceable to the profits or proceeds
18 of your drug trafficking.

19 And then, the -- the plea agreement also notes that
20 you'll be required to pay \$100 special assessment, which
21 you've agreed to pay prior to sentencing. You've agreed to do
22 that in the plea agreement.

23 And then, the plea agreement also recites that upon
24 release from any confinement you'll be required to serve at
25 least five years of supervised release and a maximum of life

1 of supervised release. And if within the course of the
2 supervised release you were to violate any of the conditions
3 of supervised release, you could be returned to prison for the
4 full supervised release term.

5 The plea agreement goes on, Mr. Lopez, and provides
6 that you are representing that you're pleading guilty because
7 you are in fact guilty of the charged offense. That you had
8 met the facts set forth in the Statement of Facts filed with
9 the plea agreement. You agree that those facts establish your
10 guilt of the charged offense beyond a reasonable doubt and you
11 understand that the Statement of Facts will be the basis of
12 the predicate for the calculation of your advisory sentencing
13 guideline's range.

14 The plea agreement continues, Mr. Lopez, and
15 provides that you're representing that you're satisfied that
16 Mr. Retureta has rendered effective assistance to you in this
17 case and Mr. Wartel as well. I'm sure he's been involved.
18 That is, that you're satisfied that your attorneys has
19 rendered effective assistance to you in this case, and that
20 you understand that -- that by entering into the plea
21 agreement that you'll be giving up your right to a jury trial.
22 And then the plea agreement recites, in very brief shorthand
23 fashion, what those rights are. I will review those with you
24 in greater detail in a few minutes.

25 The plea agreement goes on to provide that you

1 understand that the Court has the jurisdiction, that is, the
2 power to impose any sentence on you up to the statutory
3 maximum, which is life in prison, and that your sentence
4 hasn't yet been determined.

5 It's uncertain, at this time, what sentence you will
6 actually receive. Any estimate you've received from your
7 counsel, your attorney, those are merely estimates. They are
8 not promises, they are not assurances. The same with the
9 government. The government specifically notes that it makes
10 no promise or representation to you concerning what sentence
11 you will actually receive. And the plea agreement also notes
12 that you'll be sentenced under the law which provides that the
13 sentencing guidelines are now advisory, not mandatory as they
14 once were. And that the Court has the authority to impose any
15 sentence above or below the sentencing guidelines range with
16 the exception that it cannot sentence you to a period of time
17 less than ten years. That's the mandatory minimum.

18 Now, you and the government have entered into an
19 agreement to make recommendations to the Court as to how some
20 of the guidelines might apply to your case. In essence, you
21 and the government have agreed that your base offense level
22 should be 38. That there should be a two-level enhancement
23 for possession of a firearm, a two-level enhancement for use
24 of violence, a two-level enhancement for the use of
25 noncommercial aircraft and submersible vessels, a two-level

1 increase for bribery, two-level increase for an aggravating
2 role factor, and a four-level increase for that as well. So
3 that you're adjusted offense level would be 52.

4 Your acceptance of responsibility, if you earn it,
5 would be two. And the government has agreed to file a motion
6 for an additional level for acceptance of responsibility owing
7 to your timely decision to enter a plea so that your guideline
8 offense level total would be 49. And that's a guideline range
9 of life.

10 The plea agreement -- and the recommendations that
11 you've agreed to make to this Court, you and the government,
12 are not binding on the Court. I could reach a different
13 result. And there may be other disagreements as to the
14 applicability or inapplicability of other sections of the
15 guidelines. The government has agreed to recommend that the
16 Court sentence you to life. The government and the defendant
17 understand that the Court isn't bound by this agreement.

18 The plea agreement continues and provides that you
19 understand that you have the right to appeal any sentence --
20 ordinarily you would have a right to appeal any sentence
21 imposed on you, but in your plea agreement you're waiving that
22 right, you're giving it up on any ground.

23 The plea agreement also notes that any monetary
24 penalty imposed on you would be due and payable immediately.
25 That is -- and if not paid immediately, the government could

1 proceed to obtain a judgment and execute on the judgment
2 immediately.

3 Also, you have agreed to provide your financial
4 information to the government, if requested; or to the
5 probation officer, if requested; and to participate in a
6 presentence debtor's examination or to complete a financial
7 statement under penalty of perjury.

8 And the plea agreement also notes that if you're
9 incarcerated, you've agreed to participate voluntarily in the
10 Bureau of Prisons Inmate Financial Responsibility Program
11 regardless of whether the Court orders it.

12 The plea agreement continues and provides that in
13 return for your plea, the government has agreed not to
14 prosecute you further in the Eastern District of Virginia for
15 the specific conduct described in the indictment or the
16 Statement of Facts.

17 The plea agreement continues and provides that you
18 understand that forfeiture of assets is part of the sentence
19 that must be imposed in this case and you've agreed to forfeit
20 all interests you have in any drug-related assets that you own
21 or over which you've exercised any control directly or
22 indirectly, as well as any property that's traceable to, or
23 derived from, or fungible with, or a substitute for property
24 that constitutes the proceeds of your drug trafficking
25 activities.

1 And you understand that if the proceeds of the
2 offense are not available and the government -- or I beg your
3 pardon -- the Court must enter a forfeiture, money judgment in
4 the amount of the proceeds. And you've agreed to waive all
5 interests you have in any administrative or judicial
6 forfeiture proceeding whether civil, state, or federal. You
7 agree to the entries of orders of forfeiture for such a
8 property. You've agreed to waive any further review, you've
9 agreed to forfeiture, that is, you've agreed to waive all
10 constitutional statutory challenges to forfeiture carried out
11 in accordance with this plea agreement.

12 You've also agreed to take all steps, as requested
13 by the government, to pass clear title to forfeitable assets
14 to the government and to testify truthfully in any judicial
15 forfeiture proceedings.

16 You've also agreed in the plea agreement that on
17 request of the government you've agreed to identify all the
18 assets over which you had any interest in or owned or
19 exercised any control over directly or indirectly within the
20 past ten years. You've agreed to take all steps necessary by
21 the government to obtain from other parties such as banks, by
22 any lawful means, any records of assets owned by you at any
23 time.

24 And you've agreed to undergo a polygraph
25 examination. That's a lie detector test that the government

1 may choose to administer to you concerning such assets. And
2 you've also agreed to provide a consent of the release of your
3 tax returns for the last five years.

4 The plea agreement also notes that you understand
5 that pleading guilty may have consequences with respect to
6 your immigration status.

7 But his immigration status is not legal, is it
8 counsel?

9 MR. RETURETA: No, Your Honor.

10 THE COURT: I mean he wasn't brought to this country
11 willingly.

12 MR. RETURETA: He wasn't. He was extradited.

13 THE COURT: He was extradited. Well, what the plea
14 notes is, as a result of your plea, you're very likely to be
15 removed or deported from this country back to your country of
16 origin upon completion of any prison sentence.

17 Now, the plea agreement further provides --

18 (A pause in the proceeding.)

19 THE COURT: Now, continuing the summary of the plea
20 agreement. If you or the government allege that there has
21 been a breach of the plea agreement, then the Court will hold
22 a hearing and the party alleging the breach will have the
23 burden of proving the breach by a preponderance of the
24 evidence. And if the Court determines that you are in breach
25 of the agreement and the government seeks to be released from

1 its obligations under the plea agreement, then the government
2 will be free to prosecute you for any offense it knows about,
3 including what's in the indictment. And in doing so, it would
4 be free to be used against you all of the information and your
5 statement in the Statement of Facts, and you would not be able
6 to rely on any statute, rule, or constitutional provision to
7 suppress the use of that information against you.

8 And finally, the plea agreement provides that it is
9 the full and complete agreement between you and the government
10 and that there aren't any secret or side arrangements.

11 Now, Mr. Lopez, are those the terms of your plea
12 agreement with the government as you understand it?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are all of the understandings that you
15 have, concerning your plea agreement, contained in the plea
16 agreement? That is, are all of the understandings you have
17 with the government concerning your plea of guilty contained
18 in the plea agreement?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has anyone made any other or different
21 kind of promise or assurance to you -- or assurance to you of
22 any kind in connection with your plea of guilty?

23 THE DEFENDANT: No, sir.

24 THE COURT: Has anyone tried to force you or to
25 pressure you or to coerce you in any way to plead guilty in

1 this case?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you pleading guilty then freely and
4 willingly and voluntarily because you are in fact guilty?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Mr. Lopez, you'll be sentenced under the
7 law which provides that the sentencing guidelines, which once
8 were mandatory, are now only advisory, have you and your
9 counsel discussed how the sentencing guidelines might apply to
10 your case?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, you and the government have entered
13 into an agreement to make recommendations to the Court as to
14 how some of the guidelines might apply to your case.

15 Do you understand that that agreement binds you and
16 it binds the government, but it does not bind the Court? I
17 can reach a different result.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you understand that the Court
20 will not be able to determine what advisory guideline range
21 applies to your case until after a presentence report has been
22 prepared and you and your counsel have had an opportunity to
23 review it and to call to the Court's attention any objections
24 or corrections you have to the facts, conclusions, or
25 calculations contained in the report?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you also understand that if the
3 guideline range, the Court ultimately determines that applies
4 to you, if that's below ten years, the Court still must impose
5 a mandatory minimum term of imprisonment of ten years unless
6 there is an exception?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand that if the
9 guideline range is above ten years, the Court still has the
10 authority to impose a sentence that is below the guideline
11 range, but never below ten years or above the guideline range?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You also understand that if you're
14 sentenced to a period of incarceration, you will not be
15 paroled, there is no parole in the federal system, it has been
16 abolished?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And do you also understand that while
19 you would ordinarily have the right to appeal your sentence in
20 your plea agreement, you've waived that right, you've given it
21 up on any ground?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And do you understand, Mr. Lopez, that
24 if the sentence you ultimately receive is more severe than the
25 sentence you now expect, as you stand here this afternoon, you

1 will still be bound by your plea and your plea agreement and
2 you will have no right to withdraw?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Lopez, you have an absolute right to
5 plead not guilty and to persist in that plea and if you do so
6 you would have the right to a trial by jury.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now, incident to your right to trial by
10 jury, Mr. Lopez, you have all of the following rights --

11 This is where I explain to you all the rights you
12 would have if you persisted in a plea of not guilty, as you
13 have an absolute right to do, and requested a jury trial. And
14 I'm going to list those for you now so you'll understand what
15 it is you're giving up by pleading guilty.

16 First, you would have the assistance of your counsel
17 throughout all phases of the proceedings against you in this
18 case.

19 Next, you would have the right to see and hear all
20 witnesses and all evidence against you and to have those
21 witnesses and that evidence cross-examined on your behalf. In
22 other words, you cannot be prosecuted on the basis of secret
23 testimony or secret evidence. You have the right to see it
24 all, to confront it all, and to have it all cross-examined on
25 your behalf.

1 Next, you would have the right -- you would have the
2 right to testify before the jury or to remain silent before a
3 jury. And the decision whether you testify or remain silent
4 is a decision you must make, not your attorney.

5 Now, you can receive advice from them, but
6 ultimately you must be the person who decides whether you
7 remain silent or to testify.

8 Now, if you elect to remain silent, the Court will
9 instruct the jury that when the jury retires to deliberate on
10 its verdict, the jury cannot even discuss the fact that you
11 have not testified and the jury cannot draw any inference from
12 your silence.

13 Next, you would be entitled not to be found guilty
14 by the jury unless all 12 members of the jury are unanimous in
15 concluding that the government has proved beyond a reasonable
16 doubt each and every element of the offense against you in
17 Count 1 of the indictment.

18 And finally, you would be entitled to the issuance
19 of compulsory process of subpoenas to compel the attendance of
20 witnesses and evidence to be presented in your behalf.

21 Now, Mr. Lopez, do you understand that all of the --
22 of -- all of those are rights you would have if you persist in
23 a plea of not guilty as you have an absolute right to do?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And do you understand that by pleading

1 guilty you give up all those rights and there will be no trial
2 at all?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you also understand, Mr. Lopez, that
5 if you persist in a plea of not guilty, as you have an
6 absolute right to do, the government will be required to prove
7 beyond a reasonable doubt each and every element of the
8 offense charged against you in this case.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: What that means, Mr. Lopez, is this: If
11 you persist in a plea of not guilty, as you have an absolute
12 right to do, you can compel the government to prove beyond a
13 reasonable doubt all of the following:

14 First, that the alleged conspiracy existed from in
15 and around 2003 and continued up to December 2016.

16 Now, the government doesn't have to prove that the
17 alleged conspiracy existed between those two precise dates,
18 but it does have to prove that the alleged conspiracy existed
19 between two dates reasonably near those dates.

20 Next, the government would have to prove the
21 existence of a conspiracy.

22 Now, to prove the existence of a conspiracy, the
23 government does not have to prove that you and others had
24 written agreements about what you were going to do or even
25 detailed oral agreements about what you were going to do.

1 But what the government must prove, beyond a
2 reasonable doubt, is that you and at least one other person
3 has some kind of understanding or arrangement, the purpose
4 of -- the purpose of which was to distribute five kilograms or
5 more of cocaine knowing that it would be unlawfully imported
6 into the United States.

7 And next, the government would have to prove that
8 you knowingly and intentionally joined this conspiracy. That
9 you didn't do this by accident, by inadvertence or by mistake,
10 but you did it deliberately knowing what you were doing, that
11 is, entering into a conspiracy to distribute cocaine that
12 would be imported into the United States.

13 Next, the government would have to prove that you
14 intended to distribute and import into the United States five
15 kilograms or more of cocaine, a Schedule II controlled
16 substance. Cocaine is a Schedule II controlled substance. So
17 the government would have to prove that you knowingly joined
18 that conspiracy.

19 So do you understand that the government would have
20 to prove all of that beyond a reasonable doubt if you persist
21 in a plea of not guilty?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And do you understand that by pleading
24 guilty you give up the right to compel the government to prove
25 all of that beyond a reasonable doubt?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you also understand that the
3 government would have to prove by a lesser standard, by a
4 preponderance of the evidence that the offense to which you're
5 pleading guilty was permitted largely, if not entirely,
6 outside the United States, and that you were first brought to
7 this country in the Eastern District of Virginia. The
8 government would have to prove all of that by the
9 preponderance of the evidence.

10 Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you understand that by pleading
13 guilty you give up the right to compel the government to prove
14 that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you do what's charged in Count 1 of
17 the conspiracy, Mr. Lopez, that is, did you conspire with
18 others to distribute five kilograms or more of cocaine
19 intending and knowing that that cocaine would be unlawfully
20 imported into the United States?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Tell me in your own words what you did?
23 (Defendant speaking in Spanish.)

24 THE COURT: (Speaking Spanish.) Louder, please.

25 THE DEFENDANT: Your Honor, I was a member of the

1 Sinaloa cartel for over 15 years. The Sinaloa cartel was
2 based in the state of Sinaloa, Mexico. I rose to become a
3 leader within this cartel and responsible for the importation
4 from Mexico into the United States of cocaine and other
5 illegal drugs.

6 The cartels importation and subsequent sale of these
7 drugs resulted in profits worth billions of dollars.

8 THE COURT: All right. And did you do this, Mr.
9 Lopez, roughly beginning in 2003 and continuing through the
10 end of 2016?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Mr. Lopez, you may be
13 seated, sir.

14 I'm going to have Mr. Trump now tell the Court what
15 the Government were to prove were this matter to go to trial.

16 Mr. Trump, what would the Government prove by
17 admissible and probative evidence if this matter were to go to
18 trial?

19 MR. TRUMP: Your Honor, the United States would have
20 proven the following facts beyond a reasonable doubt:

21 Beginning in or about 2001 and continuing until on
22 or about May 2, 2017 in Mexico and elsewhere, the defendant
23 was part of a conspiracy, the object of which was to
24 distribute five kilograms or more of cocaine intending and
25 knowing that the cocaine would be unlawfully imported into the

1 United States, in violation of Title 21, United States Code
2 Section 959(a), 960(b), and 963.

3 Specifically, Your Honor, between 2001 until May
4 2017 arrest by Mexican authorities, the defendant, along with
5 his son, Damaso Lopez Serrano, rose to become a senior leader
6 of a significant faction of the Sinaloa cartel.

7 Under the defendant's leadership, this faction's
8 activities were critical to the success of the expansive
9 criminal objectives of the Sinaloa cartel and were responsible
10 for the distribution of tonnage quantities of cocaine --
11 excuse me -- tonnage quantities of narcotics including
12 cocaine, methamphetamine, heroin, and marijuana for illegal
13 importation into the United States.

14 The defendant's factions consisted of hundreds of
15 men who ultimately reported to the defendant. The defendant
16 and the Sinaloa cartel obtained tonnage quantities of cocaine
17 from central and South American suppliers. The defendant
18 oversaw the finances of these massive cocaine shipments, which
19 were transported to Mexico via air, land, and sea.

20 Once the cocaine reached Mexico, the defendant and
21 other Sinaloa cartel members arranged for its transportation
22 to key points in Mexico including Culiacán, Sinaloa, Mexico.

23 The defendant controlled various cities and regions
24 within Mexico for the Sinaloa cartel.

25 Culiacán was the central hub to which the defendant

1 and the Sinaloa cartel distributed tonnage quantities of drugs
2 and tonnage importation into the United States.

3 This was also the central point for the collection
4 of billions of dollars in drug trafficking proceeds from the
5 United States.

6 The Sinaloa cartel, and specifically members of the
7 defendant's faction of the cartel, also employed sicarits or
8 hit men who carried out numerous acts of violence, including
9 murders, kidnapping, tortures, and a forceful collection of
10 drug debts at the defendant's direction and the direction of
11 other senior members of the organization.

12 The defendant and other members of the Sinaloa
13 cartel, under his direction, were also responsible for
14 coordinating and making bribery payments to corrupt public
15 officials to further a number of the Sinaloa cartels, elicit
16 aims and activities.

17 These bribes funded activities that included, but
18 were not limited to: Securing the uninhibited passage of
19 narcotics throughout Mexico, securing the release of or
20 creating impediments to the extradition of incarcerated
21 associates, the installation of governmental appointees
22 sympathetic to the Sinaloa cartel and the government positions
23 vital to the cartel's interests, among others.

24 As part of his entry into drug trafficking and while
25 working as a senior government official in Mexico's Puente

1 Grande prison, the defendant directly facilitated the illicit
2 communications of Joaquín Guzman Loera, the principal leader
3 of the Sinaloa cartel while Guzman was incarcerated at the
4 facility.

5 Following Guzman's escape in the prison in 2001, the
6 defendant began working for the Sinaloa cartel. The defendant
7 eventually became a senior leader within the cartel working
8 closely with Guzman.

9 During and in furtherance of the conspiracy, the
10 defendant and other co-conspirators utilized submarines,
11 airplanes, and other methods of transportation to move cocaine
12 from South America to Mexico and ultimately into the United
13 States.

14 During the defendant's involvement in the
15 conspiracy, law enforcement in several different countries
16 received tonnage quantities of cocaine belonging to the
17 Sinaloa cartel.

18 The defendant was aware that the cocaine and other
19 drugs acquired, transported, stored, and distributed by
20 members of his faction and the larger Sinaloa cartel were
21 intended for illegal importation into the United States for
22 further distribution.

23 The total amount of cocaine involved in this
24 conspiracy for which the defendant is directly accountable is
25 far in excess of 450 kilograms. The defendant coordinated the

1 acquisition, transportation, storage, and subsequent
2 distribution of numerous multi-tonnage quantities of cocaine
3 from 2001 to 2017.

4 The defendant agrees that his participation in the
5 charged conspiracy and the acts described in this Statement of
6 Facts in all respects was knowing, intentional, and willful,
7 reflected in intention and deliberation to do something the
8 law forbids, or not in any way the product of any accident,
9 mistake, law or fact, duress, entrapment or reliance on public
10 authority.

11 Thank you, Judge.

12 THE COURT: Thank you. All right. Return to the
13 podium, Mr. Lopez.

14 Was that recitation of facts by Mr. Trump, the
15 prosecutor, true and accurate in all respects?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Mr. Lopez, how do you now
18 plea to the charge against you in Count 1 of the indictment,
19 that is the count charging you with engaging in a conspiracy
20 to distribute five kilograms or more of cocaine intending or
21 knowing that the cocaine would be unlawfully imported into the
22 United States?

23 Do you plead guilty or not guilty?

24 THE DEFENDANT: Guilty, Your Honor.

25 THE COURT: The Court in the case of the Damaso

1 Lopez Nunez finds that the defendant is fully competent and
2 capable of entering an informed plea. That your plea of
3 guilty is a knowing and a voluntary plea and that it is
4 supported by an independent basis and fact containing each of
5 the elements of the offense charged against you in Count 1 of
6 the indictment. Accordingly, the Court accepts your plea and
7 it adjudges you now guilty of that offense.

8 Mr. Lopez, the Court will order the preparation of a
9 presentence investigation report. This is a vitally important
10 document, because it's a document on which the Court will
11 chiefly rely in imposing an appropriate sentence. So you need
12 to pay careful attention to the preparation of this document.
13 And indeed, you have a role to play in this preparation. You
14 will be asked by a probation officer to provide information so
15 that the report can be prepared. You'll be asked, for
16 example, to provide information about your family, your
17 education, your work experience, your version of the offense
18 conduct, your health and financial conditions, your version of
19 the offense conduct, your criminal history, if any; and indeed
20 anything that may be material in any way to the Court's
21 sentencing decision. And you may have your counsel with you
22 when you provide that information.

23 And, of course, whenever you have any contact with
24 the government or anything of that sort, a translator, an
25 interpreter will be provided so that you will understand

1 everything and be able to be understood.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, at the time of sentencing, Mr.
4 Lopez, you will have the right to address the Court and to say
5 anything at all you wish to the Court by way of extenuation,
6 mitigation, or indeed anything you think the Court should
7 know. You won't be required to address the Court, but you'll
8 have the opportunity to do so if you wish to. And, of course,
9 your counsel will also be afforded the opportunity to address
10 the Court on your behalf.

11 I will set sentencing for --

12 MR. TRUMP: Your Honor, may we approach on the set
13 of the sentencing date?

14 THE COURT: Yes.

15 (Sidebar held.) (Open court.)

16 THE COURT: All right. I have set sentencing for
17 November 30th at 9 a.m.

18 Anything further to be accomplished in this matter
19 today on behalf of the government?

20 MR. TRUMP: No, Your Honor.

21 THE COURT: On behalf of the defendant?

22 MR. RETURETA: No, Your Honor.

23 THE COURT: All right. I thank counsel for your
24 cooperation. What's the next matter?

25 **(Proceedings adjourned at 2:15 p.m.)**

CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Plea hearing in the case of the **UNITED STATES OF AMERICA versus DAMASO LOPEZ NUNEZ**, Criminal Action No. 1:16-CR-300, in said court on the 28th day of September, 2018.

I further certify that the foregoing 35 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this December 5, 2019.



Tonia M. Harris, RPR
Official Court Reporter